

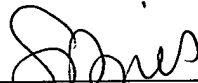


PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

CERTIFICATE OF MAILING

I hereby certify that the foregoing document is being deposited with the United States Postal Service as first class mail, postage prepaid, "Post Office to Addressee", in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450 on April 20, 2009.


Sandra Pires

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Application Serial No.: 10/576,048

Filed/371(c) date: August 7, 2006

Applicants/Appellants: Koichi SHIMAMURA, et al.

Title: SERVER APPARATUS AND CLIENT APPARATUS
IN PRESENCE DISPLAY SYSTEM

Appeal from a decision of the Primary Examiner dated November 7, 2008

04/28/2009 WABDELRI 00000005 10576048

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Atty. Docket: VPM-01601

REAL PARTY IN INTEREST

The above-identified application is assigned to **Vodafone Group PLC** by virtue of an Assignment recorded by the U.S. Patent and Trademark Office on January 24, 2008, at Reel 020409 / Frame 0037.

RELATED APPEALS AND INTERFERENCES

Appellants are not aware of any other appeals, interferences or judicial proceedings related to the above-identified application.

STATUS OF CLAIMS

This is an appeal from a decision of the Primary Examiner in the Final Office Action dated November 7, 2008, finally rejecting claims 2-50 in the above identified patent application; and claims 2-50 are on appeal. Claim 1 has been previously cancelled. Claims 2-43 stand rejected under 35 U.S.C. 103(a). Claims 44-50 stand rejected under 35 U.S.C. 102(b). Claims 16, 17, 26, 32 and 42 stand rejected under 35 U.S.C. 112, first paragraph. No claim has been allowed or indicated to contain allowable subject matter. Appellants appeal the above-noted rejections. A Notice of Appeal was submitted on March 6, 2009.

STATUS OF AMENDMENTS

Appellants filed an Amendment and Response on June 18, 2008 and a Supplemental Amendment and Response on July 3, 2008, in response to the non-final Office Action dated January 18, 2008, in which claim amendments were made and accordingly entered by the Examiner. Appellant filed a Notice of Appeal on March 6, 2009, in response to the Final

Office Action dated November 7, 2008, which did not involve any claim amendments. Accordingly, all proposed claim amendments have been appropriately entered in the above-captioned application. The claims involved in this Appeal are set forth in the attached Claims Appendix.

SUMMARY OF CLAIMED SUBJECT MATTER

I. Background

In recent years, instant messaging (IM) has attracted attention as communication means on IP networks such as the Internet. IM is a service that combines presence services to permit referencing of the states (presences) of partners such as whether partners are connected to the network and message exchange services that perform character-based conversations in real-time such as chats and progress has been made in standardizing such services. Presence services are also provided by communication systems that comprise mobile phones. Appellants have found that it would be desirable to provide a presence display system that is easier to use and makes use of the characteristics of mobile phones.

II. Appellants' Claimed Invention

Appellants' claims are discussed below in connection with portions of the specification and figures for purposes of non-limiting example and explanation only in accordance with 37 C.F.R. 41.37(c)(v).

Independent claim 9 recites a server apparatus in a presence display system (see, e.g., Figures 1 and 2A-C of the originally-filed specification) that includes the server apparatus

(see, e.g., user data section 26) and a client apparatus (see, e.g., mobile station 11) for each user, constituted to allow the client apparatus to display the states of other users (see, e.g., Fig. 3A). The server apparatus includes means for holding information indicating the states of each user and location information that are transmitted by each of the client apparatuses (see, e.g., presence server 27 and page 9, lines 18-31), means for storing a buddy list that registers other users whose states the user wishes to watch (see, e.g., buddy list server 28 and page 9, lines 18-31), for each user, means for transmitting, to each user, information indicating the states of other users registered in the buddy list and information relating to the distance between the user and the other users (see, e.g., Fig. 3A, Fig. 4 and route (5) discussed on page 17), and means for creating a list of other users that are watching the state of the user and transmitting the list to the user in accordance with a request from the user (see, e.g., buddy list server 28, page 22, line 14, et seq. and Figs. 8A-8B, routes (1) and (3)). Claims 2-8 and 13-17 depend directly or indirectly from claim 9.

Independent claim 10 recites a client apparatus in a presence display system (see, e.g., Figures 1 and 2A-C of the originally-filed specification) comprising a server apparatus (see, e.g., user data section 26) and a client apparatus (see, e.g., mobile station 11) for each user, constituted to allow the client apparatus to display the states of other users. The client apparatus includes a means for transmitting information indicating the state of the user and location information to the server apparatus (see, e.g., mobile station 11 operating with base station 15; Figure 4 and route (1) discussed on page 17). A means is provided for receiving information that indicates the states of other users and information relating to the distance between the user and the other users from the server apparatus (see, e.g., mobile station 11

operating with base station 15; Figure 4 and route (5)). A means is provided for displaying the states of the other users in a display form that corresponds with the distance between the other users and the user on the basis of the information indicating the states of the other users and information relating to the distance between the user and the other users thus received (see, e.g., Fig. 3A and page 14, line 11, et seq.) A means is provided for receiving a list of other users that are watching the state of the user in accordance with a request therefor (see, e.g., page 22, line 14, et seq., route (3) of Fig. 8A and Fig. 8B). Claims 11, 12 and 18-22 depend directly or indirectly from independent claim 10.

Independent claim 23 recites a method of allowing client apparatuses in a presence display system to display the states of other users (see, e.g., Figures 1 and 2A-C of the originally-filed specification). The method includes holding information indicating the states of each user (see, e.g., page 9, lines 18-31, discussion of operation of presence server 27) and storing a buddy list that registers other users whose states the user wishes to watch, for each user (see, e.g., page 9, lines 18-31, discussion of operation of buddy list server 28). Further, the method includes transmitting, to each user, information indicating the states of other users registered in the buddy list (see, e.g., Fig. 3A, and Fig. 4, route (5)), and creating a list of other users that are watching the state of the user and transmitting the list to the user in accordance with a request from the user (see, e.g., page 22, line 14, et seq. and Figs. 8A-8B, routes (1) and (3)). Claims 24-43 depend directly or indirectly from independent claim 23.

Independent claim 44 recites a server apparatus including a user data section (see, e.g., Fig. 1, user data section 26) containing information indicating the states of each user

(see, e.g., information in presence server 27) and containing a buddy list that registers, for each user, other users whose states the user wishes to watch (see, e.g., information in buddy list server 28). A web server (see, e.g., web server 25) is coupled to the user data section to transmit, to each user, information indicating the states of the other users registered in the buddy list (see, e.g., Fig. 3A and Fig. 4, route (5)), wherein a list of the other users that are watching the state of the user is created and provided to the user in accordance with a request from the user (see, e.g., page 22, line 14, et seq. and Figs. 8A-8B, routes (1) and (3)). Claims 45-50 depend directly or indirectly from independent claim 44.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- I. Claims 16, 17, 26, 32 and 42 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.
- II. Claims 44-50 stand rejected under 35 U.S.C. 102(b) as being anticipated by EP 1,176,840 to De Vries (hereinafter "De Vries").
- III. Claims 2-7, 9-14, 16, 18, 19, 21, 23, 24, 27-30 and 32-43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of U.S. Patent App. Pub. No. 2004/0170263 to Michael, et al. (hereinafter "Michael").
- IV. Claims 8, 17, 22, 25 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael and further in view of U.S. Patent No. 6,658,095 to Yoakum, et al. (hereinafter "Yoakum").

- V. Claims 15, 20 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael and further in view of U.S. Patent App. Pub. No. 2004/0162882 to Mora (hereinafter "Mora").

ARGUMENT

- I. **The Examiner has failed to establish a prima-facie case of lack of written description/enablement under 35 U.S.C. §112, first paragraph, of claims 16, 17, 26, 32 and 42.**

A. **Enablement/Written Description Standard**

The first paragraph of 35 U.S.C. 112 requires that the specification shall contain a written description of the invention, and of the manner and process of making and using it, so as to enable any person skilled in the art to which it pertains to make and use the invention. To satisfy these written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. *See, e.g., Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003). The test for enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. *See, e.g., United States v. Teletronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988).

Further, each claim limitation must be expressly, implicitly, or inherently supported in the originally-filed disclosure. *See, e.g., In re Wright*, 866 F.2d 422, 425, 9 USPQ2d 1649, 1651 (Fed. Cir. 1989). An applicant may show that an invention is complete by disclosure of sufficiently detailed, relevant identifying characteristics which provide evidence that applicant was in possession of the claimed invention, i.e., complete or partial structure, other physical and/or chemical properties, functional characteristics when coupled with a known or disclosed correlation between function and structure, or some combination of such characteristics. *See Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 323 F.3d 956, 964, 63 USPQ2d 1609, 1613 (Fed. Cir. 2002). A description as filed is presumed to be adequate unless or until sufficient evidence or reasoning to the contrary has been presented by the Examiner to rebut the presumption. *See, e.g., In re Marzocchi*, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). The Examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description and has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. *See In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976). The requirements for sufficient disclosure of inventions involving computer programming are the same as for all inventions sought to be patented. *See Manual of Patent Examining Procedure (MPEP)* 2161.01.

B. The Examiner has failed to establish that Appellants' specification contains insufficient written description to inform a person skilled in the art that Appellants were in possession of the claimed invention as a whole at the time the application was filed.

The rejection of claims 16 and 32 under 35 U.S.C. 112, first paragraph, is hereby traversed and it is respectfully requested that the rejection be reversed by the Board. Appellants disclose in the specification that the term "id" refers to an identifier. The location and address information of a base station (see, for example, page 11, bottom of the originally-filed specification) would be understood one of ordinary skill in the art to identify the base station. Accordingly, Appellants submit that the term "base station id" is sufficiently disclosed and supported in the specification as would be understood by one of ordinary skill in the art. Appellants respectfully request that the rejection be reversed.

The rejection of claims 17 and 26 under 35 U.S.C. 112, first paragraph, is hereby traversed and it is respectfully requested that the rejection be reversed by the Board. In connection with this rejection, the Examiner (page 3 of the Final Office Action) appears to be referencing the top of 5 of the originally-filed application that states: "Because a relative presence that is established beforehand in accordance with a community set that other users belong to can be reported, a presence suited to a buddy can be displayed." The Examiner concludes that that is no reference to different relative presence information being displayed for *different community sets* (Examiner's emphasis) of the other users. However, Appellants direct attention to page 3, middle, for example, that clearly identifies multiple community sets of other users, at which it is stated: "a relative presence setting table that associates and stores information indicating the state of the user and information indicating states transmitted to the other user in accordance with the community sets to which the other users that have registered the user in a buddy list belong is provided for each user." Appellants

also note the discussion on page 6, bottom and page 13, second full paragraph concerning the relative presence corresponding with each of multiple community sets. Accordingly, Appellants submit that the feature of *wherein the relative presence setting table causes different relative presence information to be displayed for different community sets of the other users* is fully supported in the originally-filed specification as would be understood by one of ordinary skill in the art, and respectfully requests that the rejection be reversed.

The rejection of claim 42 under 35 U.S.C. 112, first paragraph, is hereby traversed and it is respectfully requested that the rejection be reversed by the Board. The Examiner (page 3 of the Final Office Action) suggests that the feature of *wherein transmitting location information and transmitting information indicating the states of other users are performed independently* is not supported in the specification. However, Appellants direct attention to the last paragraph on page 29 of the originally-filed specification which states: "The notification of location information and the receipt of presence information may also be performed individually. For example, the location information may be transmitted from the client apparatus to the server apparatus at predetermined time intervals and the buddy presence information may be transmitted from the server apparatus to the client apparatus at time intervals determined independently of the notification of location information." Accordingly, Appellants submit that the claim is fully supported by the originally-filed specification and respectfully submit that the rejection should be reconsidered and withdrawn.

II. The Examiner has failed to establish a prima-facie case under 35 U.S.C. §102(b) of the claims as being anticipated by De Vries.

A. Anticipation Standard.

To establish a proper case of anticipation in rejecting claims under 35 U.S.C. §102, it is necessary for the Examiner to demonstrate that each element of the claim in issue is found, either expressly described or under principles of inherency, in a single prior art reference, or that the claimed invention was previously known or embodied in a single prior art device or practice. *See Kalman v. Kimberly-Clark Corporation*, 713 F.2d 760, 771 , 218 USPQ 781, 789 (Fed. Cir. 1983). The exclusion of a claimed element from a prior art reference is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. Du Pont De Nemours & Co.*, 750 F.2d 1569, 1574, 224 USPQ 409, 411 (Fed. Cir. 1984).

B. The cited reference does not teach or fairly suggest every element of Appellants' claimed invention.

The rejection of claims 44-50 under 35 U.S.C. 102(b) as being anticipated by EP 1,176,840 to De Vries (hereinafter "De Vries") is hereby traversed and it is respectfully requested that the rejection be reversed by the Board.

De Vries discloses place-specific buddy list services including an information service which provides search and notifications to inform when certain people (e.g., friends, family, business contacts, etc.) are nearby so as to facilitate communications with those people. In discussing Appellants' independent claim 44, the Examiner (page 4 of the Final Office

Action) cites to figure 1 and paragraphs 6-8 and 24-31 concerning Appellants' recited feature of a web server, coupled to the user data section to transmit, to each user, information indicating the states of the other users registered in the buddy list, wherein a list of the other users that are watching the state of the user is created and provided to the user in accordance with a request from the user.

However, Appellants submits that the above-cited portions of De Vries do not disclose a step or apparatus concerning the creation and transmission to the user, in accordance with a request from the user, of a list of the other users that are watching the state of the user, as recited by Appellants. Indeed, this appears to be explicitly recognized by the Examiner in connection with the analysis at the top of page 7 of the Final Office Action concerning rejections of other claims under 35 U.S.C. 103(a). There, the Examiner states that: "De Vries does not explicitly disclose...means for creating a list of other users that are watching the state of the user and transmitting the list of the user in accordance with a request from the user." Appellants submit that these features, stated as absent from De Vries by the Examiner and which Appellants submits are not disclosed in De Vries, are similar to features, noted above, that are recited in independent claim 44 and the claims depending therefrom.

Appellants point out that the Examiner cites to Michael as disclosing these features in rejections under 35 U.S.C. 103(a). Appellants refer to the discussion, and traversal, below of the analysis of Michael combined with De Vries in connection with the rejections under 35 U.S.C. 103(a). Accordingly, Appellants submit that the rejection of claims 44-50 under 35

U.S.C. 102(b) using only De Vries has been made in error by the Examiner and should be reversed.

In view of the above, it is requested that the Board reverse the Examiner's rejection under 35 U.S.C. 102(b).

III. The Examiner has failed to establish a prima-facie case of obviousness of the claims under 35 U.S.C. §103(a) as being unpatentable over De Vries in view of Michael and/or further in view of any of the other cited prior art references.

A. Obviousness Standard

In determining whether or not there is a proper case of obviousness, it is necessary to establish whether one of ordinary skill in the art would, having the prior art references before him, be capable, or otherwise motivated, to make the proposed combination, modification or substitution so as to yield all elements of a claimed invention. *See KSR Int'l Corp. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007); *see also In re Lintner*, 458 F.2d 1013, 1016 (CCPA, 1972). In rejecting claims under 35 U.S.C. §103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness and the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). *See also United States v. Adams*, 383 U.S. 39 (1966); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57 (1969); and *Sakraida v. AG Pro, Inc.*, 425 U.S. 273 (1976). The analysis used to combine prior art teachings to invalidate a patent claim based on obviousness should be explicitly articulated. *See KSR*, 82 USPQ2d at 1396, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)

("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). However, the analysis may take account of the inferences and creative steps that a person of ordinary skill in the art would employ. *Id.*

Furthermore, if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). In addition, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *See In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

B. The cited references do not teach or fairly suggest every element of Appellants' claimed invention as to have rendered Appellants' claimed invention obvious to one of ordinary skill in the art at the time the invention was made.

The rejection of claim 2-7, 9-14, 16, 18, 19, 21, 23, 24, 27-30 and 32-43 under 35 U.S.C. 103(a) as being unpatentable over De Vries and further in view of U.S. Patent App. Pub. No. 2004/0170263 to Michael, et al. (hereinafter "Michael") is hereby traversed and it is respectfully requested that the rejection be reversed by the Board.

De Vries is discussed above. As noted, the Examiner (page 7 of the Final Office Action) states that: "De Vries does not explicitly disclose...means for creating a list of other

users that are watching the state of the user and transmitting the list of the user in accordance with a request from the user." The Examiner cites to Michael as disclosing these features in connection with the rejections under 35 U.S.C. 103(a).

Michael discloses a telecommunications system that includes a telephone routing system and a presence database manager unit coupled to the routing system and adapted to maintain one or more watcher lists of registered users. The routing system is adapted to receive phone calls and provide an indication to the presence database manager unit whether the phone calls originate from registered users. The presence database manager unit is adapted to determine if such a user has a watcher list and transmit an indication to parties associated with the watcher list that said user is present. Paragraph 21 of Michael, which is specifically cited by the Examiner (see pages 2 and 7 of the Final Office Action) describes this in more detail, as follows:

Operation of the embodiment of FIG. 1 is shown with reference to the flowchart of FIG. 2. At step 202, the presence server unit 1104 (FIG. 1) becomes activated. At step 204, the presence server unit 1104 receives watcher lists of registered, logged in users, and monitors the status of listed parties. For example, in FIG. 1, users Alpha, Charlie, Echo, Foxtrot, and Zulu are logged in and online. At step 206, a user who is not logged in the presence system nevertheless makes use of a monitored system. Thus, for example, user Juliet makes a phone call. The call is received at the routing system 1116 (FIG. 1). The routing system 1116 identifies the calling party and provides this information to the dynamic presence proxy 1114, which updates the logged in parties' presence, at step 208. In particular, the dynamic presence proxy 1114 communicates with the presence server unit 1104 with the identity of the calling party. The system determines that the calling party, Juliet, is a registered user but is not logged in to the presence system. The presence server unit 1104 updates the presence information to indicate that Juliet is on the phone, and then sends out the presence update to the logged in watching parties that are monitoring Juliet's presence. It is noted that in certain embodiments, the users can specify which watchers are authorized to receive their presence information. Thus, a check of authorization information may occur prior such to distribution of a presence update.

Thus, Michael discloses that the watcher list is provided on the presence server (1104) and that it is the presence server (1104) that performs a "check of authorization information" prior to distributing a presence information about a user. Accordingly, Michael, alone or in combination with any of the other cited references, does not show, teach, or suggest the recited features of transmitting the watcher list to the user in accordance with a request from the user. Instead, in Michael, the watcher list is maintained by the presence server (1104), which conditionally passes on to users the presence information about other users, not the watcher list as recited in Appellants' present independent claims. Accordingly, Appellants submits that the addition of Michael does not overcome the above-noted deficiencies of De Vries in connection with Appellants' recited claims.

Appellants particularly note that the Examiner cites to disclosure in Michael (at the end of paragraph 0021) that "the users can specify which watchers are authorized to receive their presence information." From this disclosure in Michael, the Examiner concludes: "Hence the user must receive the watcher list that is maintained by the presence server." (See page 2 of the Final Office Action.) Appellants dispute this conclusion and submit that it is made in error. Appellants submit that a user specifying which watchers are authorized to receive their presence information does not teach or fairly suggest the creation and transmission to a user of a list of other users that are watching the state of the user in accordance with a request of the user, as is recited by Appellants in independent claims 9, 23 and 44, and claims depending therefrom. As noted above, Michael discloses that the watcher list is provided on the presence server (1104) and that it is the presence server (1104) that

performs a "check of authorization information" prior to distributing a presence information about a user. Although the "authorization information" checked by the presence server may be provided by the user, Appellants submit that such disclosure does not teach or fairly suggest the above-noted features recited by Appellants involving the creation and transmission to a user of a list of other users that are watching the state of the user in accordance with a request of the user.

An advantage provided by the presently-claimed invention is that, at any time, the user can request, and receive, a list of other users that are watching the state of the user. For example, the user can decide, at that particular time, if any of those other users on the list should not be authorized to see the user's current state. In contrast, Michael discloses authorization information that is held on the presence manager unit or watcher list database manager unit. The authorization information on the manager unit is checked before presence information of a user is distributed to others; however, Michael does not disclose that, at a user request, a list of other users that are watching the state of user is transmitted to the user.

Concerning independent claim 10, and the claims depending therefrom, Appellants recite a client apparatus in a presence display system that includes the feature of a means for receiving a list of other users that are watching the state of the user in accordance with a request therefor. Appellants submit that, consistent with the discussion above, concerning features not disclosed in Michael involving creating a list of other users that are watching the state of the user and transmitting the list to the user in accordance with a request from the

user, Michael also does not disclose, or provide for, receiving a list of other users that are watching the state of the user in accordance with a request therefor.

Accordingly, Appellants submit that neither De Vries nor Michael, taken alone or in combination, teach or fairly suggest at least the above-noted features that are recited by Appellants. In view of the above, Appellants respectfully request that the rejection be reversed by the Board.

The rejection of claims 8, 17, 22, 25 and 26 under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael and further in view of U.S. Patent No. 6,658,095 to Yoakum, et al. (hereinafter "Yoakum") is hereby traversed and it is respectfully requested that the rejection be reversed by the Board.

The feature of the independent claims are discussed above with respect to De Vries and Michael. Claims 8, 17, 22, 25 and 26 depend therefrom.

Yoakum discloses a presence system capable of monitoring state information derived from a plurality of sources over any number of disparate networks. The Office Action cites to Yoakum in connection with the creation and use of a relative presence setting table, citing specifically to col. 2, lines 22-59 and col. 7, lines 1-35 of Yoakum.

Appellants respectfully submit that the addition of Yoakum does not overcome the above-noted deficiencies of De Vries and Michael with respect to Appellants' independent

claims. Yoakum does not disclose, nor is Yoakum cited by the Examiner in connection with, Appellants recited features that are discussed above with respect to De Vries and Michael. Accordingly, Appellants respectfully submit that neither De Vries, Michael nor Yoakum, taken alone or in any combination, teach or fairly suggest at least the above-noted features recited by Appellants. In view of the above, Appellants respectfully request that the rejection be reversed by the Board.

The rejection of claims 15, 20 and 31 under 35 U.S.C. 103(a) as being unpatentable over De Vries in view of Michael and further in view of U.S. Patent App. Pub. No. 2004/0162882 to Mora (hereinafter "Mora") is hereby traversed and it is respectfully requested that the rejection be reversed by the Board.

The feature of the independent claims are discussed above with respect to De Vries and Michael. Claims 15, 20 and 31 depend therefrom.

Mora discloses a messenger assistant for personal information management. The Examiner cites to Mora in connection with features involving transmission and receiving of a state of movement of each user, citing specifically to paragraphs 18 and 22 of Mora.

Appellants respectfully submit that the addition of Mora does not overcome the above-noted deficiencies of De Vries and Michael with respect to Appellants' independent claims. Mora does not disclose, nor is Mora cited by the Examiner in connection with, Appellants recited features that are discussed above with respect to De Vries and Michael.

Accordingly, Appellants respectfully submit that neither De Vries, Michael nor Mora, taken alone or in any combination, teach or fairly suggest at least the above-noted features recited by Appellants. In view of the above, Appellants respectfully request that the rejection be reversed by the Board.

Accordingly, for the reasons noted above, it is requested that the Board reverse the Examiner's rejections under 35 U.S.C. 103(a).

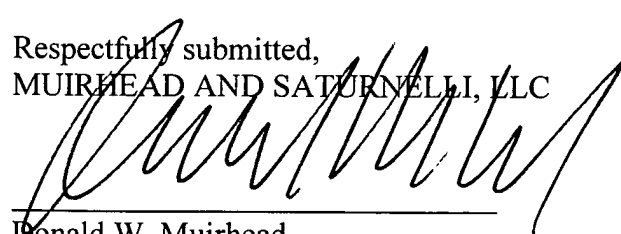
CONCLUSION

In view of the above, it is respectfully requested that the Board reverse all of the Examiner's rejections under 35 U.S.C. 112, 102 and 103.

Date: April 20, 2009

Muirhead and Saturnelli, LLC
200 Friberg Parkway, Suite 1001
Westborough, MA 01581
T: (508) 898-8601
F: (508) 898-8602

Respectfully submitted,
MUIRHEAD AND SATURNELLI, LLC



Donald W. Muirhead
Registration No. 33,978

CLAIMS APPENDIX

The claims involved in this Appeal are as follows:

1. (Cancelled)

2. (Previously presented) The server apparatus in a presence display system according to claim 9, wherein the location information includes latitude and longitude information, and the apparatus further comprises:

means for calculating the distance between the user and the other users registered in the buddy list on the basis of the latitude and longitude information transmitted by each user, and determining the proximity of the other users by comparing the calculated distance with a predetermined threshold value, and wherein

the proximity thus determined is transmitted to the client apparatus as information relating to the distance between the user and the other users.

3. (Original) The server apparatus in a presence display system according to claim 2, wherein the threshold value can be optionally set by each user.

4. (Original) The server apparatus in a presence display system according to claim 2, wherein the location information further includes address information, and address information is transmitted to the client apparatus in addition to the proximity.

5. (Previously presented) The server apparatus in a presence display system according to claim 9, wherein

means for storing information indicating whether a user gives consent for information relating to the distance thereof to be transmitted to the other users is provided for each user, and

the information relating to the distance is not transmitted to the client apparatus of users that have not consented to the transmission of information relating to distance.

6. (Original) The server apparatus in a presence display system according to claim 4, wherein

means for storing information indicating whether a user gives consent for address information thereon to be transmitted to other users is provided for each user, and

the address information is not transmitted to the client apparatus of users that have not consented to the transmission of address information.

7. (Previously presented) The server apparatus in a presence display system according to claim 9, wherein the buddy list is constituted by a plurality of community sets in which other users whose state the user wishes to watch are registered in groups; and

information indicating the states of the other users registered in a community set designated by the user and information relating to the distances between the user and the other users are transmitted to the client apparatus.

8. (Original) The server apparatus in a presence display system according to claim 7, wherein

a relative presence setting table, which associates and stores information indicating the state of the user and information indicating states transmitted to the other user in accordance with the community sets to which the other users that have registered the user in a buddy list belong, is provided for each user; and

when information indicating the states of each user is transmitted to other users that are watching the state of the user, information indicating states corresponding with the community sets of the other users is transmitted by referencing the relative presence setting table.

9. (Previously presented) A server apparatus in a presence display system comprising the server apparatus and a client apparatus for each user, constituted to allow the client apparatus to display the states of other users, comprising:

means for holding information indicating the states of each user and location information that are transmitted by each of the client apparatuses;

means for storing a buddy list that registers other users whose states the user wishes to watch, for each user;

means for transmitting, to each user, information indicating the states of other users registered in the buddy list and information relating to the distance between the user and the other users; and

means for creating a list of other users that are watching the state of the user and transmitting the list to the user in accordance with a request from the user.

10. (Previously presented) A client apparatus in a presence display system comprising a server apparatus and a client apparatus for each user, constituted to allow the client apparatus to display the states of other users, comprising:

means for transmitting information indicating the state of the user and location information to the server apparatus;

means for receiving information indicating the states of other users and information relating to the distance between the user and the other users from the server apparatus;

means for displaying the states of the other users in a display form that corresponds with the distance between the other users and the user on the basis of the information indicating the states of the other users and information relating to the distance between the user and the other users thus received; and

means for receiving a list of other users that are watching the state of the user in accordance with a request therefor.

11. (Original) The client apparatus in a presence display system according to claim 10, wherein

the information relating to the distance between the user and the other users is the proximity that is determined by comparing the distance between the user and the other users with a predetermined threshold value; and

the displaying means displays an image corresponding with the information indicating the states of the other users received from the server apparatus with a size that corresponds with the proximity.

12. (Original) The client apparatus in a presence display system according to claim 10, wherein

the information relating to the distance between the user and the other users further includes address information, and

the displaying means is capable of displaying the addresses of the other users.

13. (Previously presented) The server apparatus in a presence display system according to claim 9, further comprising:

means for receiving location information from each of the client apparatuses.

14. (Previously presented) The server apparatus in a presence display system according to claim 9, further comprising:

means for transmitting location information to each of the client apparatuses.

15. (Previously presented) The server apparatus in a presence display system according to claim 9, further comprising:

means for transmitting a state of movement of each user to each of the client apparatuses.

16. (Previously presented) The server apparatus in a presence display system according to claim 9, further comprising:

means for determining location information using a base station id associated with each of the client apparatuses.

17. (Previously presented) The server apparatus in a presence display system according to claim 8, wherein the relative presence setting table causes different relative presence information to be displayed for different community sets of the other users.

18. (Previously presented) The client apparatus in a presence display system according to claim 10, further comprising:

means for transmitting location information to the server.

19. (Previously presented) The client apparatus in a presence display system according to claim 10, further comprising:

means for receiving location information from the server.

20. (Previously presented) The client apparatus in a presence display system according to claim 10, further comprising:

means for receiving a state of movement of each user from the server.

21. (Previously presented) The client apparatus in a presence display system according to claim 10, further comprising:

means for determining location information using a base station id associated with the client apparatus.

22. (Previously presented) The client apparatus in a presence display system according to claim 10, wherein a relative presence setting table, which associates and stores information indicating the state of each user and information indicating states transmitted to the other user in accordance with the community sets to which the other users that have registered the user in a buddy list belong, is provided for each user; and when information indicating the states of each user is transmitted to other users that are watching the state of the user, information indicating states corresponding with the community sets of the other users is transmitted by referencing the relative presence setting table, wherein the relative presence setting table causes different relative presence information to be displayed for different community sets of the other users.

23. (Previously presented) A method of allowing client apparatuses in a presence display system to display the states of other users, comprising:

holding information indicating the states of each user;

storing a buddy list that registers other users whose states the user wishes to watch,
for each user;

transmitting, to each user, information indicating the states of other users registered in the buddy list; and

creating a list of other users that are watching the state of the user and transmitting the list to the user in accordance with a request from the user.

24. (Previously presented) The method according to claim 23, wherein the buddy list is constituted by a plurality of community sets in which other users whose state the user wishes to watch are registered in groups and wherein information indicating the states of the other users registered in a community set designated by the user are transmitted to the client apparatus.

25. (Previously presented) The method according to claim 24, wherein a relative presence setting table, which associates and stores information indicating the state of the user and information indicating states transmitted to the other user in accordance with the community sets to which the other users that have registered the user in a buddy list belong, is provided for each user and wherein when information indicating the states of each user is transmitted to other users that are watching the state of the user, information indicating states corresponding with the community sets of the other users is transmitted by referencing the relative presence setting table.

26. (Previously presented) The server apparatus in a presence display system according to claim 25, wherein the relative presence setting table causes different relative presence information to be displayed for different community sets of the other users.

27. (Previously presented) The method according to claim 23, further comprising:

holding information indicating location information for each user, wherein the location information includes latitude and longitude information;

transmitting, to each user, information relating to the distance between the user and the other users in the buddy list that is calculated on the basis of the latitude and longitude information transmitted by each user; and

determining proximity of other users by comparing the distance with a predetermined threshold value, wherein the proximity is transmitted as information relating to the distance between the user and the other users.

28. (Previously presented) The method according to claim 27, wherein the threshold value can be optionally set by each user.

29. (Previously presented) The method according to claim 27, wherein location information is transmitted by each of the client apparatuses.

30. (Previously presented) The method according to claim 27, wherein location information is provided from the server to each client apparatus of the users.

31. (Previously presented) The method according to claim 27, further comprising:

transmitting a state of movement of each user to each of the client apparatuses.

32. (Previously presented) The method according to claim 27, further comprising:
determining location information using a base station id associated with each of the client apparatuses.
33. (Previously presented) The method according to claim 27, wherein information indicating whether a user gives consent for information relating to the distance thereof to be transmitted to the other users is provided for each user, and the information relating to the distance is not transmitted to the client apparatus of users that have not consented to the transmission of information relating to distance.
34. (Previously presented) The method according to claim 27, wherein the location information further includes address information, and address information is transmitted to the client apparatus in addition to the proximity.
35. (Previously presented) The method according to claim 34, wherein information indicating whether a user gives consent for address information thereon to be transmitted to other users is provided for each user, and wherein the address information is not transmitted to the client apparatus of users that have not consented to the transmission of address information.

36. (Previously presented) The server apparatus in a presence display system according to claim 9, wherein information relating to distance between the user and other users includes location information of the other users that is transmitted to the user and used by the user to calculate the distance.

37. (Previously presented) The client apparatus in a presence display system according to claim 10, wherein information relating to distance between the user and other users includes location information of the other users that is transmitted to the client apparatus and used by the client apparatus to calculate the distance.

38. (Previously presented) The method according to claim 23, further comprising:

transmitting, to each user, location information for at least one other user in the buddy list.

39. (Previously presented) The method according to claim 38, further comprising:

each of the users determining proximity of other users in the buddy list by calculating a distance between the user and the at least one other user using the location information.

40. (Previously presented) The method according to claim 39, further comprising:

comparing the distance with a predetermined threshold value.

41. (Previously presented) The method according to claim 38, wherein the location information includes latitude and longitude information.

42. (Previously presented) The method according to claim 38, wherein transmitting location information and transmitting information indicating the states of other users are performed independently.

43. (Previously presented) The method according to claim 38, wherein the location information is the proximity of the other users to the user.

44. (Previously presented) A server apparatus, comprising:

a user data section containing information indicating the states of each user and containing a buddy list that registers, for each user, other users whose states the user wishes to watch; and

a web server, coupled to the user data section to transmit, to each user, information indicating the states of the other users registered in the buddy list, wherein a list of the other users that are watching the state of the user is created and provided to the user in accordance with a request from the user.

45. (Previously presented) The server apparatus according to claim 44, wherein location information is provided to at least one user for at least one of the other users that is in the buddy list.

46. (Previously presented) The server apparatus according to claim 45, wherein each of the users determines proximity of other users in the buddy list by calculating a distance between the user and the at least one other user using the location information.

47. (Previously presented) The server apparatus according to claim 46, wherein the distance is compared with a predetermined threshold value.

48. (Previously presented) The server apparatus according to claim 45, wherein the location information includes latitude and longitude information.

49. (Previously presented) The server apparatus according to claim 45, wherein providing location information and providing information indicating the states of other users are performed independently.

50. (Previously presented) The server apparatus according to claim 45, wherein the location information is the proximity of the other users to the user.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.